

ORDINANCES – SECOND READING/RECOMMENDATION

ITEM NO.	ORD. NO.	TITLE
21	11-1469	<p>ORDINANCE NO. 11-1469 OF THE CITY OF CARSON AMENDING CARSON MARKETPLACE SPECIFIC PLAN NO. 10-05 AND ADOPTING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE DEVELOPMENT OF UP TO 1550 RESIDENTIAL UNITS AND 1,995,125 SQUARE FEET OF COMMERCIAL USES FOR THE BOULEVARDS AT SOUTH BAY PROJECT ON 168-ACRE SITE</p> <p align="center">INTRODUCED 4/5/11; ITEM NO. 20</p> <p>ES/RR 5/0</p> <p>ACTION:</p> <p>DESCRIPTION OF VOTE: Maker/Second Ayes/Noes/Abstain/Absent</p> <p>LEGEND: JD:Dear ES:Santarina MG:Gipson DH:Davis-Holmes RR:Ruiz-Raber</p>

ORDINANCE NO. 11-1469

**AN ORDINANCE OF THE CITY OF CARSON
AMENDING CARSON MARKETPLACE SPECIFIC
PLAN NO. 10-05 AND ADOPTING THE FIRST
AMENDMENT TO THE DEVELOPMENT
AGREEMENT FOR THE DEVELOPMENT OF UP TO
1550 RESIDENTIAL UNITS AND 1,995,125 SQUARE
FEET OF COMMERCIAL USES FOR THE
BOULEVARDS AT SOUTH BAY PROJECT ON A
168-ACRE SITE**

**THE CITY COUNCIL OF THE CITY OF CARSON HEREBY ORDAINS AS
FOLLOWS:**

Section 1: An application has been duly filed by the applicant Carson Marketplace, LLC, with respect to real property consisting of 168 acres located generally south of the I-405 freeway, west of Avalon Boulevard interchange, east of Main Street and north and south of Del Amo Boulevard. The property is shown in Exhibit "A" attached hereto and fully described in The Boulevards at South Bay Specific Plan (formerly known as the Carson Marketplace Specific Plan.) The project is a mixed-use residential/commercial development. The General Plan is designated as Mixed Use-Residential and the zone is Specific Plan No. 10-05.

Section 2: The Carson Redevelopment Agency certified the Environmental Impact Report (SCH No. 2005051059), adopted a Statement of Overriding Consideration and the Mitigation Monitoring and Reporting Program on February 8, 2006. The amended Specific Plan does not produce impacts in excess of those disclosed in the certified EIR.

Section 3: The Planning Commission held a duly noticed workshop on the amended Specific Plan No. 10-05 and the First Amendment to the Development Agreement on December 14, 2010 and a public hearing on January 25, 2011 at the City Council Chambers, 701 East Carson Street, Carson, California. After consideration of the evidence and testimony, the Planning Commission recommended approval of the amended Specific Plan and the First Amendment to the Development Agreement.

Section 4: The City Council held a public hearing on the amended Specific Plan No. 10-05 and the First Amendment to the Development Agreement on April 5, 2011 at the City Council Chambers, 701 East Carson Street, Carson, California. A notice of the time, place and purpose of the aforesaid meeting was duly given.

Section 5: Evidence, both written and oral, was duly presented to and considered by the City Council at the aforesaid meeting, including but not limited to staff reports, along with testimony received by the applicant and other members of the public.

Section 6: The City Council finds that:

- a) The amended Boulevards at South Bay Specific Plan No. 10-05 (formerly known as the Carson Marketplace Specific Plan) and the First Amendment to the Development Agreement are in conformance with the General Plan.
- b) The Boulevards at South Bay Project is located on a former landfill site, which is currently undergoing remediation under the direction of the California Department of Toxic Substances Control.
- c) The Boulevards at South Bay Project will further the public health, safety and welfare through the remediation and development of a former landfill site.
- d) The amended Specific Plan No. 10-05 complies with Government Code Section 65451.
- e) That the approval of the Amended Specific Plan for the Boulevards at South Bay Project and the First Amendment to the Development Agreement, which will allow for the orderly development of the largest vacant parcel within the City of Carson, is in conformity with public convenience and good land use practices, will not adversely affect the orderly development of property and will not adversely affect property values.
- f) That once the building locations have been constructed, there will be limiting factors associated with the landfill that will preclude much additional incremental development.
- g) That the Specific Plan will be in effect after the Development Agreement expires, and further environmental review will be required at that time when the accompanying Development Agreement expires on March 21, 2021.

- h) That the amended Specific Plan allows 40 foot light poles to be within 45 feet of the property line adjacent to the Torrance Channel and the residents need to be protected from any light and glare from the lights on The Boulevards at South Bay property.
- i) The First Amendment to the Development Agreement is in compliance with the procedures established by City Council Resolution No. 90-050 as required by Government Code Sections 65864 through 65869.5.
- j) The Development Agreement provides for amendment or cancellation in whole or in part, by mutual consent of the parties to the agreement or their successors in interest as required in Section 65868 of the Government Code.

Section 7: The Boulevards at South Bay Specific Plan No. 10-05 (formerly the Carson Marketplace Specific Plan) as revised to incorporate conditions attached to this ordinance as Exhibit "B, Conditions of Approval", which is on file in the office of the Economic Development Department, Planning Division, complies with Government Code 65451.

Section 8: Based on the aforementioned findings, the City Council amends the draft Specific Plan No. 10-05 as follows:

- a) Add the following language to Section 6.2:

"C. Upon identifying and constructing within all building areas, the allowed number of units and/or square footage will be reduced to that built plus 10% additional square footage or units, provided the number of residential units does not exceed 1550."

- b) Add the following language to Section 6.1:

"D. When the Development Agreement expires on March 21, 2021, any development proposed for the 168 acres, known as the Boulevards at South Bay, shall be subject to environmental review pursuant to the California Environmental Quality Act."

- c) Add the following language to Section 6.7.2 C:

"Lighting shall be constructed, shielded and directed so that adjacent residences are not impacted by light or glare coming from the project site."

Section 9. The amended Specific Plan No. 10-05 is incorporated by reference and a copy is located in the Economic Development Department, Planning Division subject to the Conditions of Approval as shown in Exhibit "B" attached hereto.

Section 10. The First Amendment to the Development Agreement is attached as Exhibit "C".

Section 11. Based on the aforementioned findings, the City Council approves The First Amendment to the Development Agreement and adopts the Amended Specific Plan No. 10-05 and authorizes their execution and all action necessary to comply with the terms.

Section 12. The Ordinance No. 11-1469 is approved for introduction and first reading on April 5, 2011 and will be set for adoption at the second reading on April 19, 2011.

Section 13. The Ordinance shall become effective thirty (30) days after the second reading approval date.

Section 14. The City Clerk shall certify the adoption of the Ordinance and shall transmit copies of the same to the applicant.

PASSED, APPROVED AND ADOPTED THIS 5TH DAY OF APRIL, 2011.

MAYOR JAMES DEAR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT B

CITY OF CARSON ECONOMIC DEVELOPMENT PLANNING DIVISION CONDITIONS OF APPROVAL

SPECIFIC PLAN NO. 10-05

GENERAL CONDITIONS

1. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of approval of approval of the City Council Ordinance for Specific Plan No. 10-05.
2. Development plans shall be in substantial conformance with the Illustrative Plan dated July 22, 2009 along with Table 4.1 Land Use Summary of the Specific Plan. Substantial revisions will require review by the Planning Commission subject to Section 8.1.8 the Boulevards at South Bay Specific Plan No. 10-05.
3. Prior to implementing the Equivalency Program, an implementation manual describing the program and process including directions on how to classify a proposed use, directions on how to apply traffic generation rates, and a tracking tool the maximum thresholds for trips, water consumption, wastewater generation and solid waste generation in the certified EIR are not exceeded, shall be submitted to the Planning Division and approved by the Planning Officer. The Implementation Manual will serve as a companion and supplement to the Equivalency Program provisions identified in Section 8.3 of the Specific Plan.
4. The applicant shall submit twenty copies and an electronic version of the amended Specific Plan that conforms to any adopted changes.
5. A modification of these conditions, including additions and deletions, may be considered upon filing of an application by the owner of the subject property or his/her authorized representative in accordance with the adopted Specific Plan No. 10-05 and/or the Carson Municipal Code.

EXHIBIT C

NO FEE DOCUMENT
Gov't. Code 27383

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

City Clerk
City of Carson
701 East Carson Street
Carson, California 90745-2224

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This First Amendment to Development Agreement ("First Amendment") is entered into as of this 5th day of April, 2011, by and between the CITY OF CARSON, a municipal corporation ("City"), and CARSON MARKETPLACE LLC, a Delaware limited liability company ("Developer"), with reference to the following facts:

RECITALS

A. The City and Developer entered into that certain Development Agreement dated March 21, 2006 ("Development Agreement"). Capitalized terms used in this Amendment, but not otherwise defined herein, shall have the meaning provided for that term in the Development Agreement.

B. The Parties now wish to modify certain provisions of the Development Agreement to reflect updated phasing and timing status of the Project and certain other updated terms as set forth herein.

C. The Development Agreement is being amended pursuant to Sections 8.2 and 8.6 of that agreement. Following delivery of all required notices and conduct of all required hearings before the Planning Commission and the City Council, the Planning Commission and the City Council have found, on the basis of substantial evidence, that the Development Agreement, as modified by this First Amendment, remains consistent with all applicable plans, rules, regulations and official policies of the City including the Enabling Resolution. Specifically, the City Council has found that the Development Agreement, as modified by this First Amendment: (i) is consistent with the General Plan and any applicable specific plan; (ii) is in conformity with public convenience and good land use practices; (iii) will not be detrimental to the health, safety and general welfare; (iv) will not adversely affect the orderly development of property or the preservation of property values; and (v) is consistent with the provisions of Government Code Sections 65864 through 65869.5.

NOW, THEREFORE, based upon the foregoing, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, City and the Developer agree as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated into this Agreement as if fully set forth herein.

2. Modification of Definition. The reference to the Specific Plan in Section 1.52 of the Development Agreement shall mean The Boulevards at South Bay Specific Plan, adopted February 8, 2006, as amended April 5, 2010, by City Council Ordinance No. 11-1469.

3. Confirmation of Operative Date. The Parties hereby acknowledge and confirm that the Operative Date under Section 3.2 of the Development Agreement occurred on January 30, 2007.

4. Update of Timing Provisions. The Parties hereby acknowledge and agree that:

(i) the requirements set forth in Sections 5.2(a) and (b) of the Development Agreement have been timely satisfied.

(ii) Subsection 5.2(c) of the Development Agreement is hereby amended and restated in its entirety to read as follows: "Developer will complete initial remediation work on the Central Parcel within five (5) years of Developer's commencement of remediation work as described in clause (b) above. For purposes hereof, Developer conclusively shall be deemed to have completed remediation work upon Developer's receipt of all necessary approvals and clearances from DTSC permitting construction of the Project's vertical improvements to commence upon a portion of the Site.

(iii) Subsection 5.2(d) is hereby amended and restated in its entirety to read as follows: "Developer will commence construction of the vertical improvements for at least a portion of the commercial or residential components of the Project within three (3) years after Developer completes remediation work on the Central Parcel as described in clause (c) above; provided that Developer's commencement of construction thereof within that time period shall not be deemed to preclude Developer from subsequently commencing construction of further or additional commercial or residential components of the Project thereafter in accordance with the Development Plan and this Agreement."

5. Modification of Public Improvement Construction Standards. The last sentence of Section 5.4 is hereby amended and restated to read in its entirety as follows: "Except as otherwise approved by the City, including as authorized by the City Engineer, City shall not accept dedication of streets located on remediated landfill property. Notwithstanding anything in this Development Agreement to the contrary, as provided in and contemplated by the First Amendment to Owner Participation Agreement entered into between the Agency and the Developer dated May 20, 2008 (the "First Amendment"), Lenardo Drive and its related utilities and street improvements and the Stamps Drive utilities, as such contemplated improvements are further described in the First Amendment, (i) will be accepted for dedication by City to the extent City typically holds title to such improvements, (ii) for any remaining improvements City will support and cooperate in the acceptance of the dedication or transfer of any applicable utilities to the governmental or quasi-governmental entity with jurisdiction over those improvements, and (iii) City acknowledges that all such improvements, whether dedicated or transferred to the City or another public or quasi-public entity, shall constitute "Participant

Public Improvements” for purposes of the Agency financial assistance to the Project as expressly now provided in the First Amendment.”

6. Confirmation of Affordable Housing Requirement. City has determined that the affordable housing assistance funds to be provided to the Project shall be applied to the multifamily rental elements of the Project. Accordingly, Section 5.5 of the Development Agreement is hereby amended and restated in its entirety to read as follows: “Developer has agreed to reserve fifteen percent (15%) or less, at the City’s sole discretion, of the rental residential units within the Project for low and very low income qualified tenants pursuant and subject to an agreement of Developer and the Agency upon the terms of an affordable housing agreement to be negotiated between the Developer and the Agency as more fully described in the Owner Participation Agreement. The location within the Project of such reserved affordable rental units shall exclude the Del Amo Parcel, unless otherwise agreed to by the Parties each acting in their sole discretion.”

7. The first sentence of Section 6 of the Agreement is hereby amended deleting the reference to “two (2) years” from that sentence and substituting in its place a reference to “ten (10) years”. The third sentence of said Section 6 is hereby amended by deleting the reference to “second (2nd) anniversary” from that sentence and substituting in its place a reference to “tenth (10th) anniversary”.

8. Force and Effect. All other provisions of the Development Agreement not modified or amended by this First Amendment shall remain in full force and effect.

9. Execution Authority. The person(s) executing this First Amendment on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this First Amendment on behalf of said party, (iii) by so executing this First Amendment, such party is formally bound to the provisions of this First Amendment, and (iv) the entering into of this First Amendment does not violate any provision of any other agreement to which said party is bound.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned parties have executed this First Amendment to Development Agreement as of the date first above written.

“CITY”

CITY OF CARSON,
a municipal corporation

By: _____
Mayor, Jim Dear

ATTEST:

CITY CLERK

Approved as to form:

_____, Agency Counsel

“DEVELOPER”

CARSON MARKETPLACE LLC,
a Delaware limited liability company

By: LNR Carson, LLC,
a Delaware limited liability company,
Its Manager

By: LNR Carson Holdings, Inc.,
a California corporation

By: _____
Its: _____
Name: _____

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

On _____, 2010, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

On _____, 2010, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)